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Jodi A. Calderon

Date:

6-19-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Christopher WEAVER

Art Unit:

Serial No. 09/150,632

Examiner: Unassigned

Filed: April 6, 2000

For: *System for Extracting Samples from a Stream*

Division of Appl. Serial No. 09/150,362, filed September 9, 1998

**PETITION UNDER 37 CFR §1.182 TO TREAT
PURPORTED CONTINUED PROSECUTION APPLICATION AS
DIVISIONAL APPLICATION FILED UNDER 37 CFR §1.53(b)**

Director of the U.S. Patent
and Trademark Office
Washington, D.C. 20231

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OFFICE OF PETITIONS

06/21/2001 L61785
06/28/2001 SLUANG1 00000015 09150632
01 FC:122

Sir: -130.00 OP

Applicant's undersigned representative has authority to submit this paper and all other papers in connection with this and all other applications pursuant to a Revocation and Power of Attorney form, signed by applicant on June 18, 2001 and attached hereto as

06/21/2001 L61785 00000011 09010022

01 FC:122

Appendix A.

130.00 OP ✓

Applicant filed U.S. Patent Application Serial No. 09/150,632 (the '632 application) on September 9, 1998. The '632 application was filed with 15 claims. Claims 12-15 were withdrawn from consideration as a result of a restriction requirement. The application was allowed on January 7, 2000, and applicant paid the issue fee on April 7, 2000. The application matured into U.S. Patent No. 6,062,092 on May 16, 2000.

06/29/2001 SLUANG1 00000015 09150632

01 FC:122

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On April 6, 2000, applicant filed a paper purporting to be a Continued Prosecution Application (CPA) request transmittal (the "CPA Transmittal"). The CPA Transmittal was accompanied by a preliminary amendment canceling claims 1-11 and amending claim 12. The USPTO's copy of the CPA Transmittal bears a date stamp of April 6, 2000. A postcard receipt, filed with the CPA Transmittal, also bears a date stamp of April 6, 2000. A copy of the USPTO's copy of the CPA Transmittal, the accompanying amendment, and the postcard receipt are collectively attached as Appendix B.

Applicant now realizes that the papers filed on April 6, 2000 should have been filed under 37 CFR §1.53(b) as opposed to 37 CFR §1.53(d). Specifically, applicant did not intend the '632 application to become abandoned and, instead, intended the '632 application and the divisional application to proceed on parallel tracks. Applicant therefore petitions to disregard that portion of the previously filed request for CPA that constitutes an inherent request to expressly abandon the '632 application and to treat that paper as the filing of an application under 37 CFR §1.53(b). This petition is believed to be timely because, while the USPTO acknowledged receipt of the CPA Transmittal, there is no record that the CPA papers were properly processed or entered into the file. Indeed, the issuance of the '092 patent from the '632 application proves that the CPA application has not been fully processed. Grant of this petition is therefore believed to be in order. *See, e.g.,* MPEP §201.06(d).

A check in the amount \$130 in payment of the petition fee under 37 CFR 1.17(h) is enclosed. No additional fees are believed to be payable with this communication. Nevertheless, should the Examiner consider any additional fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

In view of the foregoing, grant of this Petition, assignment of a serial number to the divisional application filed April 6, 2000, and processing of that application are believed to be in order and are respectfully requested. Should there be any remaining questions the attending to of which would expedite such action, the Petitions Examiner is requested to contact the undersigned at the telephone number appearing below.

Respectfully submitted,


Timothy E. Newholm

Date: June 19, 2001

Enclosures:

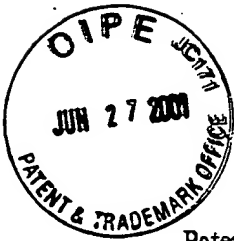
Appendix A - Revocation and Power of Attorney
Appendix B - Copy of CPA transmittal letter, accompanying
amendment, and postcard receipt

BOYLE FREDRICKSON NEWHOLM
STEIN & GRATZ S.C.
250 East Wisconsin Avenue
Suite 1030
Milwaukee, WI 53202
Telephone: (414) 225-9755
Facsimile: (414) 225-9753

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,062,092

Serial No.: 09/150,632

Issue Date: May 16, 2000

Filing Date: September 9, 1998

Inventors: Christopher S. Weaver

Invention: *System for Extracting Samples from a Stream*

REVOCATION OF POWER OF ATTORNEY AND
APPOINTMENT OF NEW ATTORNEYS

COMMISSIONER FOR PATENTS
 Washington, D.C. 20231

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Sir:

Applicant hereby revokes all previous powers of attorney and appoints the following, all registered to practice before the U.S. Patent and Trademark Office, to prosecute any and all applications to issuance, including any divisional, continuation, and continuation-in-part, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Letters Patent:

<u>Name</u>	<u>Registration No.</u>	<u>Name</u>	<u>Registration No.</u>
James F. Boyle	33,653	Andrew S. McConnell	32,372
Peter C. Stomma	36,002	Timothy E. Newholm	34,400
David D. Stein	40,828	Michael J. Gratz	39,693
Mary E. Eberle	43,599	Matthew B. Corr	45,434

Applicant requests that the correspondence be sent to:

Timothy E. Newholm
 BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ S.C.
 250 East Wisconsin Avenue, Suite 1030
 Milwaukee, Wisconsin 53202
 Tel. No.: (414) 225-9755

Respectfully submitted,

Date: 6/18/01

 Christopher S. Weaver

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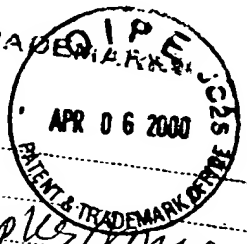
Appendix A



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Box CPA
COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231
RE: SERIAL NO. *09/150,632*
FILED *9 September 1998*
FOR *System for extracting samples from a stream*
CLIENT *WEAVER, Christopher*
ITEMS SENT *CU#21707 For \$34500, CUA & exp. Mr. (dup.)*

Box CPA
COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231
RE: SERIAL NO. *09/150,632*
FILED *9 September 1998*
FOR *System for extracting samples from a stream*
CLIENT *WEAVER, Christopher*
ITEMS SENT *CU#21707 For \$34500, CUA & exp. Mr. (dup.)*



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90-78/1211
21707

PATENT AND T.M. OFFICE
THE STAMP HEREON
WILL ACKNOWLEDGE THE
DATE OF RECEIPT OF THE
ACCOMPANYING PAPERS

DATE *6 Apr. 00* DKT: *13763*

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WALNUT CREEK, CA 94596

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[Signature]

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